

<p style="text-align: right;">Page 125</p> <p>1 to issue a TRO prohibiting the bankruptcy filing from</p> <p>2 taking place?</p> <p>3 A. I heard that after the fact, yes.</p> <p>4 Q. And are you aware that these objectors have stated</p> <p>5 that in fact the state lawyers asked for a short delay</p> <p>6 before the ruling was issued so they could get the</p> <p>7 bankruptcy filing in before the judge came down with a</p> <p>8 TRO?</p> <p>9 A. I don't know if I heard it -- I may have read that</p> <p>10 later. I don't know if I heard it.</p> <p>11 Q. Did you have any involvement in those actions?</p> <p>12 A. No, no.</p> <p>13 Q. Do you deny that that's what occurred?</p> <p>14 A. I only know what I've heard and I have no personal</p> <p>15 knowledge, I just know what I've heard and what I've</p> <p>16 read.</p> <p>17 Q. And isn't it correct that you wanted to get the</p> <p>18 bankruptcy petition filed as soon as possible because</p> <p>19 you knew there was a risk that the state might rule it</p> <p>20 was illegal -- the state court might rule it was</p> <p>21 illegal under state law for the bankruptcy proceeding</p> <p>22 to be filed?</p> <p>23 A. No, that wasn't the reason.</p> <p>24 Q. Is there a particular reason that the bankruptcy</p> <p>25 filing was made at 4:06 in the afternoon of the same</p>	<p style="text-align: right;">Page 127</p> <p>1 A. No.</p> <p>2 Q. And you have not taken any steps to stop the</p> <p>3 bankruptcy proceeding from going forward; have you?</p> <p>4 A. No.</p> <p>5 MR. ULLMAN: Would this be a good time to</p> <p>6 stop for lunch, a quick lunch?</p> <p>7 MR. SHUMAKER: Sure.</p> <p>8 MR. ULLMAN: I'm ready to continue but I</p> <p>9 know --</p> <p>10 THE WITNESS: You got another -- how much</p> <p>11 -- do you have another line of inquiry? Whatever</p> <p>12 everybody --</p> <p>13 MR. ULLMAN: I'm about to switch subject</p> <p>14 matters.</p> <p>15 THE VIDEOGRAPHER: Going off the record at</p> <p>16 12:52 p.m.</p> <p>17 (Luncheon recess between</p> <p>18 12:52 p.m. and 1:30 p.m.)</p> <p>19 THE VIDEOGRAPHER: We're back on the record</p> <p>20 at 1:35 p.m.</p> <p>21 BY MR. ULLMAN:</p> <p>22 Q. Welcome back, Mr. Orr.</p> <p>23 A. Good afternoon.</p> <p>24 Q. One other question about the June 14th proposal.</p> <p>25 Referring to page 98, we talked about the defined</p>
<p style="text-align: right;">Page 126</p> <p>1 day a TRO was being heard in the state court other</p> <p>2 than to get the jump on the state court ruling?</p> <p>3 MR. SHUMAKER: Object to the form.</p> <p>4 A. Not to the best of my knowledge.</p> <p>5 Q. Now, you're aware that the state court in that</p> <p>6 litigation in fact later issued a ruling that PA 436</p> <p>7 is unconstitutional to the extent that it authorizes a</p> <p>8 proceeding under Chapter 9 in the way that could</p> <p>9 threaten to impair or diminish accrued pension</p> <p>10 benefits?</p> <p>11 A. Yes, I was informed that there are I believe three</p> <p>12 TROs after the bankruptcy filing.</p> <p>13 Q. And you have proceeded with the bankruptcy petition</p> <p>14 notwithstanding; correct?</p> <p>15 A. Well, the bankruptcy petition had been filed. There</p> <p>16 were open questions about the application of the stay.</p> <p>17 There was also a question about an appeal, which was</p> <p>18 taken up I believe by the Attorney General's office.</p> <p>19 So when you say you proceeded with the petition, we</p> <p>20 filed the petition, there was a ruling, and there were</p> <p>21 appeals.</p> <p>22 Q. Okay. And in light of the state court ruling that</p> <p>23 PA 436 was unconstitutional, you did not take any</p> <p>24 steps to withdraw the bankruptcy petition from filing;</p> <p>25 did you?</p>	<p style="text-align: right;">Page 128</p> <p>1 contribution benefit plan?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Is it correct that under that plan</p> <p>4 contributions are being made only for people who would</p> <p>5 be current City employees?</p> <p>6 A. Will the plan be closed?</p> <p>7 Q. Yes.</p> <p>8 A. Yes, I believe so.</p> <p>9 Q. So under the restructuring plan there would be no</p> <p>10 pension contributions made for retirees; correct?</p> <p>11 A. I believe that's correct.</p> <p>12 Q. Now, you I believe said that the June 14th proposal</p> <p>13 was presented at a meeting to representatives of</p> <p>14 various creditors, I think you said that in your</p> <p>15 declaration?</p> <p>16 A. On June 14th, yes.</p> <p>17 Q. Okay. Did you speak at that meeting?</p> <p>18 A. Yes.</p> <p>19 Q. And who else spoke?</p> <p>20 A. I believe all -- several members of our team, I</p> <p>21 believe it was Mr. Heiman, David Heiman, I believe it</p> <p>22 was Ken Buckfire, I believe Heather Lennox was on, I</p> <p>23 believe Bruce Bennett was there, I believe Ken</p> <p>24 Buckfire may have spoken. I'm trying to recall if</p> <p>25 there was anyone else.</p>



800.211.DEPO (3376)
EsquireSolutions.com

<p style="text-align: right;">Page 141</p> <p>1 of letters of what could be addressed based upon our</p> <p>2 June 14th proposal.</p> <p>3 Q. Okay. And with whom were those discussions? Which</p> <p>4 groups? You said you met with one or two groups or</p> <p>5 you were aware of meetings with one or two groups.</p> <p>6 A. I think those are confidential, because as I said,</p> <p>7 those discussions are ongoing, so I don't want to</p> <p>8 interfere with settlement negotiations or breach</p> <p>9 confidentiality so I'm reluctant to answer your</p> <p>10 question.</p> <p>11 Q. Okay, well, will you answer my question or will you</p> <p>12 not?</p> <p>13 A. I don't think I can. I think they're supposed to be</p> <p>14 confidential.</p> <p>15 Q. Well, you know, you have to answer the question unless</p> <p>16 your counsel instructs you not to.</p> <p>17 MR. SHUMAKER: If you think it's going to</p> <p>18 reveal privileged communications, I'm going to</p> <p>19 instruct you not to answer.</p> <p>20 THE WITNESS: I'll be -- I don't know so</p> <p>21 much -- can I consult with my counsel?</p> <p>22 MR. ULLMAN: Yes.</p> <p>23 THE WITNESS: Can we go off the record?</p> <p>24 MR. ULLMAN: Yes.</p> <p>25 THE WITNESS: Let's step out.</p>	<p style="text-align: right;">Page 143</p> <p>1 saying June.</p> <p>2 A. July.</p> <p>3 Q. As of July 17th, you had not received any actual</p> <p>4 proposal outside possibly with the settlement</p> <p>5 discussions you were talking about from any union or</p> <p>6 retiree association; is that right?</p> <p>7 A. Outside of those settlement negotiations --</p> <p>8 Q. Yes.</p> <p>9 A. -- that is correct.</p> <p>10 Q. Now, as of July 17, had the City told any union or</p> <p>11 retiree association that it would in fact be willing</p> <p>12 to proceed with the restructuring on terms that did</p> <p>13 not include the elimination of ongoing pension</p> <p>14 contributions for retirees?</p> <p>15 A. When you mean the City, you mean all of my consultants</p> <p>16 and others; correct?</p> <p>17 Q. Yes.</p> <p>18 A. There may have been discussions in that regard. I</p> <p>19 think I recall hearing that there was -- I can't</p> <p>20 recall a specific meeting, a discussion about how that</p> <p>21 would be arranged, but I'm not sure.</p> <p>22 Q. So you personally did not make any such statement; did</p> <p>23 you?</p> <p>24 A. Statement about?</p> <p>25 Q. Saying to anyone -- to any union or retiree</p>
<p style="text-align: right;">Page 142</p> <p>1 THE VIDEOGRAPHER: Going off the record at</p> <p>2 1:53 p.m.</p> <p>3 (A brief recess was taken.)</p> <p>4 THE VIDEOGRAPHER: We're back on the record</p> <p>5 at 1:57 p.m.</p> <p>6 BY MR. ULLMAN:</p> <p>7 Q. Okay, will you answer my question, Mr. Orr?</p> <p>8 A. No, I think this is -- concerns commercially sensitive</p> <p>9 potentially confidential settlement negotiations and</p> <p>10 implicates the attorney-client privilege so I cannot</p> <p>11 answer your question.</p> <p>12 Q. Okay, so apart from the discussions that you won't</p> <p>13 tell me about, would the City actually sit down with</p> <p>14 any union or retiree association in an attempt to</p> <p>15 reach an agreement on a structuring plan on terms that</p> <p>16 are different than the terms set out in the June 14th</p> <p>17 proposal as of July 17th?</p> <p>18 A. As I said before, subject to the meetings we've had,</p> <p>19 we've exchanged information which may constitute the</p> <p>20 type of sit down you're talking about. Other than the</p> <p>21 ones that have been recounted and phone calls and</p> <p>22 meetings I may not be aware of, this is what I know in</p> <p>23 my declaration.</p> <p>24 Q. And as of June 17th then, I take it you had not</p> <p>25 received any actual proposal -- I'm sorry, I keep</p>	<p style="text-align: right;">Page 144</p> <p>1 association that the City would in fact be willing to</p> <p>2 agree to a restructuring that did not involve the</p> <p>3 elimination of ongoing pension contributions for</p> <p>4 retirees.</p> <p>5 A. No, I didn't say that.</p> <p>6 Q. And do you know in fact whether anyone working on your</p> <p>7 team ever said that to any union or retiree</p> <p>8 association?</p> <p>9 A. No.</p> <p>10 Q. Okay. During the time from June 14th to July 17, did</p> <p>11 you or anyone else from your team tell any union or</p> <p>12 retiree association that the City acknowledged that</p> <p>13 under Michigan law pension rights were explicitly</p> <p>14 protected from being impaired or diminished?</p> <p>15 A. I don't --</p> <p>16 MR. SHUMAKER: Objection, form, calls for</p> <p>17 speculation.</p> <p>18 A. I don't recall anyone saying that, but it may have</p> <p>19 happened.</p> <p>20 Q. But you personally didn't make that statement; did</p> <p>21 you?</p> <p>22 A. I don't recall saying that. I may -- you know,</p> <p>23 anything is possible, I just don't recall saying it.</p> <p>24 Q. And as of July 17, had the City, you or anyone working</p> <p>25 for you, told any union or retiree association that it</p>



800.211.DEPO (3376)
EsquireSolutions.com

<p style="text-align: right;">Page 145</p> <p>1 would in fact be willing to agree to a restructuring 2 plan that did not effectively eliminate the prior 3 existing health benefits for retirees? 4 MR. SHUMAKER: Objection, foundation, calls 5 for legal speculation. 6 A. Healthcare benefit for retirees? 7 Q. Yeah. 8 A. That did not eliminate it? 9 Q. Yeah, that you -- 10 A. Did not adjust it in some fashion? 11 Q. Did not essentially cut it out the way it was being 12 cut out in the June 14th proposal. 13 A. Yeah, I want to be careful with the frame cut out, 14 because I think there were subsequent discussions 15 about what would be provided instead -- 16 Q. Uh-huh. 17 A. -- as a proposal, so I don't want my testimony to seem 18 as if we were not proposing an alternative to the 19 existing healthcare plan and that had not been 20 discussed prior to July 17th, but subject to those 21 qualifications the answer to your question is yes. 22 Q. Now, I've been asking you as of July 17 and then the 23 bankruptcy filing was the very next day; correct? 24 A. Yes. 25 Q. Now, in your declaration do you recall making</p>	<p style="text-align: right;">Page 147</p> <p>1 A. Yeah, I don't think that was just a function of press 2 reports, I think that was relayed to me upon my 3 information and belief by others as well. 4 Q. Upon your information and belief sounds like you 5 didn't hear it personally? 6 A. No, I just don't recall whether I heard it personally. 7 I have heard it personally in other meetings from 8 union representatives prior to July 17th, sure. 9 Q. With respect to the statements that you quote in the 10 newspaper, those are just newspaper reports; right? 11 A. Well, if they're newspaper -- they speak for 12 themselves if they're newspaper reports, but have I 13 heard that from union representatives? 14 Q. I'm -- 15 A. I'm responding to your question. Have I heard that 16 from union representative? Yes. 17 Q. I'm going to get these in two phases; okay? 18 A. Okay. 19 Q. For the newspaper reports, you're relying on what was 20 said in the newspaper? 21 A. Yes. 22 Q. So you have no personal knowledge as to whether the 23 quotation in the newspaper was accurate or anything 24 like that? 25 A. Unless I was there, I'm not the reporter, yes.</p>
<p style="text-align: right;">Page 146</p> <p>1 statements to the effect that there were expressions 2 by certain union representatives that they would not, 3 and I quote, countenance discussions over proposals to 4 modify either retiree healthcare or pensions? 5 A. Yes, I think those are quite publicly stated. 6 Q. And you refer in your declaration to newspaper reports 7 from June 20 and 21? 8 A. Yes, and I'm trying to recall if people said that to 9 me personally as well. Yes, but I do recall the press 10 reports, yes. 11 Q. And those are in fact press reports that you referred 12 to as you said? 13 A. Yeah, but I think -- and I'm just -- was your question 14 asked about union representatives or union members? 15 Q. Union representatives. 16 A. Could that include members? 17 Q. I'm not asking about people who are just members and 18 not officials in the union. 19 A. So you're talking about union officials? 20 Q. Union officials. 21 A. Okay. That they would not countenance any change 22 to -- 23 Q. I think the language from your declaration is that 24 they would not countenance discussions over proposals 25 to modify either retiree healthcare or pensions.</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. Now, what statements were made to you outside of what 2 you read in the newspaper? 3 A. Quite early on I had heard from union representatives, 4 I believe at DFFA, DPLSA, DPOA, I'm not sure it 5 includes AFSCME, UAW, but I had heard statements in 6 that regard in many of the meetings that I've had with 7 them previously prior to July 17th. 8 Q. And did they specifically -- what statements, saying 9 specifically what? 10 A. Generally -- you know, I don't know the exact quotes, 11 but generally speaking what I said. They would not 12 countenance cuts to healthcare and benefits. 13 Q. That wasn't actually what you said in your 14 declaration. 15 A. That's what I said generally. 16 Q. What you said in your declaration is they would not 17 countenance discussions over proposals to modify 18 either retiree healthcare or pensions. 19 A. Yeah, healthcare, okay, yes. 20 Q. So who said what -- I would like to know specific as 21 to who said what to you when? 22 A. As I said, I had meetings early on with DFFA, I don't 23 recall the specific members, but I recall the meeting, 24 they were quite heated. Might have been one with 25 Mr. McNamara, Mr. Shinsky and others. I've had many</p>



800.211.DEPO (3376)
EsquireSolutions.com

<p style="text-align: right;">Page 165</p> <p>1 Q. But that's never been subject to an audit; has it?</p> <p>2 A. To the best of my knowledge I don't know when they</p> <p>3 have or when they haven't.</p> <p>4 Q. Okay. And I think you indicated that in coming up</p> <p>5 with these figures various people were consulted in</p> <p>6 various fields and a number of assumptions were made;</p> <p>7 is that right?</p> <p>8 A. I believe so.</p> <p>9 Q. And I think you also indicated in your structuring</p> <p>10 proposal from June 14th that the numbers are subject</p> <p>11 to various assumptions which could or could not prove</p> <p>12 right; correct?</p> <p>13 A. Well, I think in June 14th we've said that it's a</p> <p>14 proposal and there may be various issues that may or</p> <p>15 may not be correct.</p> <p>16 Q. Yeah. Okay, and obviously if any of the assumptions</p> <p>17 that went into the underlying numbers that appear in</p> <p>18 your declaration are wrong, then the numbers</p> <p>19 themselves would also be subject to inaccuracy; true?</p> <p>20 A. Let me say this about that. Both in June 14th</p> <p>21 presentation and in this declaration, we've tried to</p> <p>22 present an accurate picture of the City's books and</p> <p>23 records and status to the best extent possible that we</p> <p>24 have. Where there were questions we have tried to err</p> <p>25 on the side of reasonable assumptions as opposed to</p>	<p style="text-align: right;">Page 167</p> <p>1 were monetized, that would provide additional cash to</p> <p>2 pay obligations including retirement and health</p> <p>3 obligations; correct?</p> <p>4 A. Well, additional cash from onetime asset sales may not</p> <p>5 necessarily equal cash flows. As I understand the</p> <p>6 analysis we've tried to present is cash flows based</p> <p>7 upon a recurring basis as opposed to onetime assets</p> <p>8 but it would yield additional cash.</p> <p>9 Q. Yes. If you sold an asset and had money, you would</p> <p>10 have the money available to pay something?</p> <p>11 A. Yeah, you might have a onetime -- I'm not an</p> <p>12 accountant, but you might have a onetime cash charge,</p> <p>13 yes.</p> <p>14 Q. And if the cash, the amount you got was large, it</p> <p>15 could last for a long period of time; correct?</p> <p>16 A. Well, it depends upon what --</p> <p>17 MR. SHUMAKER: Objection, form.</p> <p>18 A. Depends upon what it was used for. I mean, what are</p> <p>19 you talking about? When you say could last for a long</p> <p>20 period of time, it could be a one -- you could sell</p> <p>21 one asset for \$5 million and that wouldn't last a</p> <p>22 month.</p> <p>23 Q. Yes, and depending on the amount of assets that were</p> <p>24 sold, if you got a substantial amount of money, that</p> <p>25 could enable the City of Detroit to pay ongoing bills</p>
<p style="text-align: right;">Page 166</p> <p>1 unreasonable assumptions either way. But your general</p> <p>2 question as to whether or not if the information going</p> <p>3 in was inaccurate, revealed an inaccurate result, I</p> <p>4 think it's true as a matter of just common sense and</p> <p>5 logic.</p> <p>6 Q. And the same thing as to assumptions. If the</p> <p>7 assumption made was wrong, then the output would be</p> <p>8 wrong also?</p> <p>9 A. I think that's why we asked several times to have a</p> <p>10 discussion about the assumptions that are necessary</p> <p>11 for pension benefits.</p> <p>12 Q. Now, the cash flows that are being reported in your</p> <p>13 declaration, those do not include any assumptions as</p> <p>14 to the monetization of various assets that the City</p> <p>15 continues to hold; is that right?</p> <p>16 MR. SHUMAKER: This is paragraph 56 that</p> <p>17 you're referring to, counsel?</p> <p>18 MR. ULLMAN: Yeah, I'm looking in general.</p> <p>19 MR. SHUMAKER: In cash flow?</p> <p>20 MR. ULLMAN: Yeah, cash flow.</p> <p>21 A. You're talking about generally do the cash flows</p> <p>22 include any monetization of any City assets?</p> <p>23 Q. Yeah.</p> <p>24 A. No, they do not.</p> <p>25 Q. And obviously if assets currently held by the City</p>	<p style="text-align: right;">Page 168</p> <p>1 for some period of time; true?</p> <p>2 MR. SHUMAKER: Objection to form.</p> <p>3 A. Here again, depending upon the size of the asset, but</p> <p>4 anything is possible.</p> <p>5 Q. Okay. Now, the City of Detroit owns certain pieces of</p> <p>6 art that are stored at the Detroit Institute of Art;</p> <p>7 is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And how many is that?</p> <p>10 A. I think the City owns approximately 66,000 pieces of</p> <p>11 art.</p> <p>12 Q. Now, those --</p> <p>13 A. No, strike that. Let me be clear so we can move on.</p> <p>14 Q. Yeah.</p> <p>15 A. I think there are 66,000 pieces of art over at Detroit</p> <p>16 Institute of Art. I'm not sure the City owns all</p> <p>17 66,000 pieces. I've been informed that it owns 35,000</p> <p>18 of those pieces in an undisputed capacity.</p> <p>19 Q. Okay, that's what I was getting at. And that's</p> <p>20 distinct from art that is subject to a public -- or is</p> <p>21 or may be subject to a public trust or something like</p> <p>22 that. This is 35,000 pieces that the City owns, as</p> <p>23 you said, in an undisputed capacity?</p> <p>24 A. Outright, yes.</p> <p>25 Q. Outright. Now, is it correct that the City has</p>



800.211.DEPO (3376)
EsquireSolutions.com